

July 14, 2008

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

JULY 14, 2008

MEMBERS PRESENT: KATHLEEN LOCEY, ACTING CHAIRMAN
FRANCIS BEDETTI, JR.
PAT TORPEY
JAMES DITTBRENNER

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

ABSENT: MICHAEL KANE, CHAIRMAN

REGULAR_MEETING

MS. LOCEY: I'd like to call to order the July 14, 2008
meeting of the New Windsor Zoning Board of Appeals.

APPROVAL_OF_MINUTES_DATED_JUNE_9_AND_JUNE_23,_2008

MS. LOCEY: Motion to accept the minutes of June 9,
2008 and June 23, 2008 meeting as written.

MR. TORPEY: So moved.

MR. BEDETTI: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. TORPEY	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE

MS. LOCEY: For those of you who are new to this venue, the zoning board process is a two phase process, the first is a preliminary hearing that all initial applicants come before the board, tell the board what it is you're looking for and we as a board tell you what we would need to see, what you would need to accomplish in order for us to favorably consider your request. This way you're prepared for the second phase which is a public hearing and that's required by law where notice needs to be given, the public has a chance to come in and comment either in favor of or against your application. And after that public hearing is closed, then a decision is finally rendered. So for this evening we have five preliminary hearings. This is the first step of the process.

PRELIMINARY_MEETINGS

GEORGE_HAWKINS_(08-20)

MS. LOCEY: First hearing is George Hawkins. This application is a request to allow proposed detached garage closer to the road than a principal building and a request for a variance of five feet maximum building height to permit a 20 foot building at 9 Feitsma Lane.

Mr. George Hawkins appeared before the board for this proposal.

MS. LOCEY: Why don't you tell us in your words exactly what it is you're looking for.

MR. HAWKINS: Basically, it's, there's a pre-existing driveway, this is a second driveway, I'm looking to put in approximately a 28 x 28 foot two car garage.

MS. LOCEY: Okay, and the zoning board requires that any accessory buildings be further back than the principal building, in this case your house.

MR. HAWKINS: That's why I need a variance because it's closer to the road than the primary residence.

MS. LOCEY: Could you explain to the board why there's not a location on your property where you could fit your garage and comply with the existing zoning?

MR. HAWKINS: Basically, it's the way the road is cut, it would move the garage closer, the garage would be roughly 25, 30 feet off the road and to put it any further back on the property would be really difficult and pretty costly. It's like I said the driveway there's a pre-existing driveway already there and off that driveway, move it back about another 20 feet so that I can make a turn into where the garage would go.

MS. LOCEY: How long is the driveway? Is it quite a distance off the road?

MR. HAWKINS: The driveway is probably roughly 25 feet, maybe 30 feet at the most.

MS. LOCEY: And you feel that it aesthetically would not fit together to put it somewhere else?

MR. HAWKINS: Oh, yeah, it would be basically buried back in the woods. I'm at the end of a dead-end road.

MR. KRIEGER: Where you'd have to put it to comply with the zoning you'd have to remove trees and substantial vegetation to erect it if you were to put it that far back?

MR. HAWKINS: If I put it that far back it's basically in a low lying wet area and I'd have to remove trees. Right now the trees are already cleared out of there and removed so--

MS. LOCEY: So there would be no cutting down of any substantial type of vegetation?

MR. HAWKINS: Just two small trees.

MR. KRIEGER: Not where it's proposed.

MR. HAWKINS: Where it's proposed you can see in the pictures this little tree would have to come out but to put it back any further would put it right in the middle of the woods and substantial amount of excavation would have to be done plus like I say it's a low lying area and it's wet in there.

MS. LOCEY: Would construction of this detached garage cause any water problems, drainage problems?

MR. HAWKINS: No.

MS. LOCEY: Are there any easements on your property where you're proposing to construct the garage?

MR. HAWKINS: Easements meaning?

MR. KRIEGER: Easements, permission by somebody else to use your property.

MR. HAWKINS: There's an easement and let me show you here.

MS. LOCEY: Whose easement is it?

MR. HAWKINS: To be honest with you, we can't find it, the garage is going to sit back in here, this is lower about 2 1/2 cars wide lower driveway where I park my trailer and plow truck, above this is power lines, it's roughly 10 feet off the property line, it can be reached from the road.

MR. TORPEY: You're not over it?

MR. HAWKINS: It's maybe back passed that.

MS. LOCEY: That's all we need to know.

MR. HAWKINS: Yet when I call the utility companies they don't have anything on record.

MR. TORPEY: You're not going under it.

MR. HAWKINS: Absolutely not.

MR. KRIEGER: It wouldn't interfere.

MR. HAWKINS: No.

MS. LOCEY: Would the placement of the two car garage where you have proposed it obstruct the sight vision as

cars pass your driveway or for you exiting or entering?

MR. HAWKINS: No, like I say, I'm at the end of a dead-end road.

MS. LOCEY: Are there any other comments or questions from the board? Did I miss anything?

MR. KRIEGER: No.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for request from George Hawkins for a garage closer to the road than is required.

MS. LOCEY: Than the principal building is.

MR. TORPEY: I'll second that.

ROLL CALL

MR. DITTBRENNER	AYE
MR. TORPEY	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE

MS. LOCEY: Our next regularly scheduled meeting in two weeks is July the 28th has been canceled so your public hearing would have to be sometime after that.

MR. HAWKINS: Okay, thank you.

COWAN'S_JEWELERS_(08-21)

MS. LOCEY: Cowan's Jewelers, request for variance of 1 foot 6 inch height and 4 foot width for existing 4 ft. x 14 ft. wall sign and request for 320 days for existing temporary 4 ft. x 2 ft. road sign to be installed permanently at 335 Windsor Highway in a C zone.

Mr. Jeffrey Cowan appeared before the board for this proposal.

MS. LOCEY: If you would like to come forward and please give your name so that our stenographer can hear you.

MR. COWAN: My name is Jeffrey Cowan.

MS. LOCEY: Did you want to summarize for us in your words what it is you're looking for?

MR. COWAN: Concerns two signs that have been at our premises for many years, we're in business 71 years, of the 71, 33 years have been at 335 Windsor Highway and the sign is a sign above our store that's the larger sign that has been there since 1975. And the second sign which is closer to the road changeable letters sign which has been there for many, many years as well. Actually, this probably never would have even come to light had the landlord, she has since now sold the property, apparently just was sold a few days ago, she was selling the property and therefore because she was selling the property she needed to have these items addressed, had she not been selling the property we would not even be here.

MS. LOCEY: It's good to get it cleaned up.

MR. COWAN: And regarding the sign that's on the roof that's something like I say that's been there since

1975 and there was even a fire on the property in 1980 and when we were actually out of that location for about eight or nine months because three stores had burnt to the ground next to us on the same property there's only three left, when we went back in in 1980 there was no problems having that sign there again and it's been there for the last 28 years after that. So and the sign on the road has been there for many years as well and it does not have any flashing lights, there is no arrows, it's basically no deterrent to the traffic, it's not anything that, I have not received any negative comments from anybody since the sign went up that it's causing any problems.

MS. LOCEY: It does not impede the vision for traffic back and forth?

MR. COWAN: Definitely not and so and there's other signs like that that are also in existence around town, with all due respect, even there's one in front of Town Hall which has been there for a long time, same sign, I guess my sign is considered a temporary sign and it's really not because it's been there for many, many years and it's--

MS. LOCEY: Do you have plans to make it a permanent sign so it no longer can be categorized as temporary?

MR. COWAN: It is basically as far as I'm concerned it's permanent because of the way it's fixed to the ground and it's not something that we have ever moved so it's been, we have referred to it as a permanent sign cause it's there for so many years, like I say, it doesn't impede anybody's vision. I have never had a customer said well, your sign is in my way, there's been no negative comments and it's been no deterrent for so many years we wouldn't even be here if my landlord wasn't selling the property.

MS. LOCEY: On the agenda, Mike, could you clarify the

request for 320 days for an existing temporary sign to be installed permanently? That's a little confusing to me, if Mr. Cowan really doesn't have any plans to do anything different.

MR. BABCOCK: Well, we feel it's a temporary sign, it's a changeable letter temporary sign, it's allowed for I think a 30 day period and I'm not sure, I assume you talked to Mr. Lisi in reference to this?

MR. COWAN: Mr. Lisi?

MR. BABCOCK: My office.

MR. COWAN: I spoke to--I have not, no.

MS. LOCEY: Well, in other words, is the Town Building Department of the idea that it needs to be anchored or somehow permanently affixed to that location? Is there work that Mr. Cowan needs to do to address that issue?

MR. BABCOCK: Well--

MR. COWAN: If I might interject just for a second we have had over the last few months we have had some really bad storms and tremendous winds and my sign hasn't blown over or I mean it's in there very securely therefore if I need to make it more permanent I'm happy to do that.

MR. KRIEGER: Put another way, I think what's being asked Mike is what does Mr. Cowan need to do to make this in your view to make this temporary sign a permanent sign?

MR. BABCOCK: I personally did not look at it, somebody in my office did, so I really don't know that answer tonight, I don't know how this language got put in here. I would assume my guys do that, somebody did that for a reason and I would assume that they had

talked to Mr. Cowan in reference to that or somebody just to get this through. I don't know where that the 320 days came from.

MR. TORPEY: It has to come in and go back out.

MR. KRIEGER: There's something else that occurs to me and that is if the dimensions of this roadside sign are not in compliance with the statute would giving him if he were granted a variance for extension of a temporary sign would it just condemn him to have to come back in here to get a variance for the size of the sign to make it permanent? While he's here he might as well do it now.

MR. TORPEY: How can you make that permanent? It's still a movable sign.

MS. LOCEY: Also is the one in front of Town Hall on four legs or is that permanently affixed?

MR. BABCOCK: No, that's a temporary sign.

MR. KRIEGER: I'm asking him if that's what makes it temporary.

MR. TORPEY: Would he have to come back once a year?

MR. BABCOCK: No, a sign, you know, it's a sign that you can just drag away, it's not a sign that's attached by poles, it's not, you know, I don't know what the definition is, I don't know if we have a definition of what a permanent temporary is but this is a temporary sign that people typically use for a grand opening. The code says that this sign is allowed for 45 days. There was some more paperwork I was missing Myra pointed out to me and somebody has asked or requested, I don't know whether it was the landlord or what that this sign be there for 365 days.

MR. COWAN: No, I guess that was when I was filling out the paperwork.

MS. MASON: No, even before then because that's how it was referred from the building department.

MR. BABCOCK: Right, it's been requested to be there for one year, it's allowed to be there 45 days, 45 from 360 leaves 320 days.

MR. COWAN: And I think where that came about was my understanding with Mrs. Mason that 365 days equals a full year so instead of just being there for 45 days or whatever is allowed 365 days per year.

MR. TORPEY: You're asking for an extra 320?

MR. COWAN: Not for one year but per year so it's basically there until we decide to leave or whatever, that's where I think that wording came in to instead of making it 45 days it would be for 365 days per year.

MR. BABCOCK: He's asking to keep that sign that's forever.

MR. TORPEY: Well, until he moves.

MR. COWAN: Right, if I move, the sign goes with me.

MR. KRIEGER: Well, that's true of all businesses.

MR. COWAN: Right, so, I mean, it's not forever.

MR. BABCOCK: That's a changeable letter sign, the problem with that is when somebody else moves in they're just going to take the letters off and put the letters on.

MR. COWAN: I own the sign so it would come with me.

MR. BABCOCK: Okay.

MR. COWAN: So I would remove it.

MR. KRIEGER: Is it the view of the building department that the changeable letters make it temporary or something else?

MR. BABCOCK: No, it's just sitting there, you know, that's what makes it a temporary sign.

MR. TORPEY: You can take that sign and put it on top of a car.

MS. LOCEY: Is the sign illuminated at all?

MR. COWAN: It does illuminate at night, basically, but it doesn't run all night and it doesn't run every night, it's enclosed, no flashing lights cause these are available with colored and flashing and arrows and none of that, just has fluorescent bulbs on the inside, that's the only illumination and it doesn't run every night, it runs basically when I'm there, when I leave, I turn the sign off so it doesn't run that long at night.

MS. LOCEY: So the other sign in question is the one on top of the building that apparently is larger than the zoning allows and the variance being requested is for one foot six inch height and four foot wide in addition to what's allowed by our zoning?

MR. COWAN: Right, and that was there actually when we moved we moved from Newburgh to New Windsor to this location and when we opened up in 1975 at this location, that's when we installed that sign and we never once had one comment in 33 years until the landlord decided she's selling the property, that's how this all came about but it had no negative comments.

MS. LOCEY: Just for the record and I know the questions will appear rhetorical but we do need to get them on the record. You're not building anything in addition to whatever the existing building is, there's no issues as far as drainage, taking down any vegetation, any easement, drainage issues, that sort of thing?

MR. COWAN: No.

MS. LOCEY: This is strictly for signs which are already there and you're just trying to get the variances needed?

MR. COWAN: Yes, these are for signs that have been in place for many years, just a matter of a formality of getting the property variances.

MS. LOCEY: I believe you already indicated there are other signs similar to that within the town?

MR. COWAN: Yes, very much so.

MS. LOCEY: So it more or less do you feel complies or goes along with the character of that neighborhood? It would not or has not changed the character of that particular strip?

MR. COWAN: No.

MS. LOCEY: Does anybody else have any issues that you'd like Mr. Cowan to address?

MR. BEDETTI: I'd just like to make one other comment relative to signage in the town, businesses from what I understand in the law the businesses are allowed two signs, a facade sign of certain size which the one on the roof I guess is one of the ones you're putting an application in and for a freestanding sign. Now you have a freestanding sign out by the curb that's above

this temporary sign, is that correct?

MR. COWAN: Yes, very small, just has enough room to have Cowan's Jewelers, no room for anything else.

MR. BEDETTI: So you have those two signs which are again allowed by law and then you have a temporary sign for signs and things of that nature, so do you have two other signs besides this one sign that you're--this quote temporary sign, so you do have two other signs, is that correct?

MR. COWAN: That's correct, one on top of the building and a small one, the purpose of this sign is for information concerning our business, even though it's changeable, we can change the letters, what's on there now has been on there for many months so it's almost like a permanent message I wouldn't say that's going to being permanent but we're not changing letters every day or every week. The message has been up there for months and months, so that's the only sign that I have that I can actually put a particular message up there. The other signs just say two words, Cowan's Jewelers, that's so this gives me an opportunity to at least put some information on the sign.

MS. LOCEY: Any other comments or questions?

MR. DITTBRENNER: Just a point of clarification, so we're, the second request we're looking to approve a variance for this temporary sign for 365 days?

MS. LOCEY: Correct, it's now allowed for 45 days as a temporary sign, he's requesting a variance of 320 days which would allow him 365 a year.

MR. COWAN: Per year that would be not just to--

MS. LOCEY: How many years has that sign been in place?

MR. COWAN: Ten to 15 already with no, unless the town has heard any negative comments, I haven't personally about it blocking any vision or letters there that don't belong there and we've had a lot of bad storms and that sign has not blown over. So therefore if that's the case even though it's quote unquote you refer to as temporary, it's basically been installed not to be a temporary sign.

MS. LOCEY: I was going to ask you to supply this but you already have, this shows the traffic flowing in relation to where the sign is placed and it's obvious from this picture that it does not impede the sight vision.

MR. COWAN: Correct.

MS. LOCEY: If there are no other comments or questions, I'll accept a motion.

MR. BEDETTI: I will make a motion that we schedule a public hearing for Cowan's Jewelers request for a variance for the facade sign as well as his request to extend the time for his permanent sign to eventually become permanent and the temporary sign to eventually become permanent.

MS. LOCEY: To a total of 365 days.

MR. TORPEY: I'll second that.

MS. LOCEY: Discussion? The attorney has indicated why not ask him to apply for a second permanent sign.

MR. KRIEGER: Second freestanding sign then it would be variance in perpetuity, we wouldn't have to do this 320 days a year, I'm not sure whether there's any provision for that, it would be legally defensible but second freestanding sign--

MS. LOCEY: Something that this board has entertained before.

MR. KRIEGER: Yes.

MR. COWAN: Of course the 365 that's just to bring it up to fully--

MR. KRIEGER: I understand the idea of creating a temporary sign to be allowable in perpetuity, they don't match, we simply call it second freestanding sign, it does match and he has the variance and he can keep it.

MR. DITTBRENNER: Would he be required to meeting the freestanding sign permanency?

MR. KRIEGER: Well, I assume that his variance would be for this particular sign with these dimensions and so forth.

MR. BEDETTI: There are some requirements that describe what a freestanding sign is mounted on a pole like he has one already.

MR. KRIEGER: He'd have to ask for a variance of those as well as the existence of the second sign but that would take care of the temporary aspect and it, you wouldn't be approving it, being asked to approve a temporary sign in perpetuity which is an inherent contradiction in terms.

MR. COWAN: What actually defines a temporary sign?

MR. KRIEGER: It would also get around that question. Well, the absence of which make it not temporary. These are questions if he simply made an application for a second freestanding sign these are questions that you don't have to--

MR. BEDETTI: I would suggest that it would be one that did not comply with a freestanding sign, freestanding sign has to be mounted on a pole, it has to be certain height from the ground, this obviously is not a freestanding sign by definition if it were a freestanding sign.

MR. COWAN: So this wouldn't qualify?

MR. BEDETTI: So it would not qualify as a freestanding sign based on the definition that currently exists in the code for a freestanding sign and identifies, the code also identifies that type of sign that he has as a temporary sign.

MR. KRIEGER: No code identifies temporary sign, it doesn't define what temporary sign is.

MR. BEDETTI: Defines what a freestanding sign is.

MR. KRIEGER: In asking for a variance for a second freestanding sign you have to ask for a variance of those requirements that the sign didn't meet dimensions or pole or whatever.

MS. LOCEY: But what's the less complicated most efficient way to try to address the issue?

MR. BABCOCK: Andy, I only have one comment as far as the temporary sign if the board allows him to keep the temporary sign and I know it's kind of crazy with the language there he said that when he leaves the temporary sign leaves. If we give them a second sign it would be a variance that would stay there forever so maybe that's a way we can look at it so he's agreed to remove the one once he leaves.

MR. COWAN: I own the sign so when I leave the sign goes with me.

MR. BABCOCK: That would be the only difference I can see.

MR. COWAN: It would make it easier for the town.

MR. TORPEY: We're not giving permission for another sign to stay there forever.

MR. KRIEGER: Well, any variance runs with the land so it's problematic, plus the fact courts have basically said where there are restrictions that are illegal they remove the restrictions but not the decision so in other words if you have, if the board were to render a decision allowing him to keep a temporary sign until he removed it and that provision were struck down subsequently by say subsequent owner, subsequent renter came in, said I want to put up my sign now, can't, well, off to court we go, and if a court says well, there was a variance and it runs with the land so yes, he's permitted so the, I don't think the board wants to create a decision that has like a ticking time bomb, if it's the board's intent to allow it only for a period of time to allow it in perpetuity it would be contrary to their intent.

MS. LOCEY: But my next question would be if we issued the 320 day variance would he then have to reapply for this temporary 320 day variance each year?

MR. BABCOCK: We're asking for that he does not do that, we're asking that he keeps the sign that he has in place as long as he's in business. The day he leaves he'll take it away, that's what he's asking.

MR. COWAN: Right, that would be easier not to have to do the process all over again.

MR. BABCOCK: If we go back to the other definition of the sign, I mean, I don't have that with me tonight, I'd have to read what that definition is and I would

assume he either would have to seek a variance of the definition of mounting it on a pole or have to mount it.

MS. LOCEY: Which is what we don't want, I don't believe we want another permanent.

MR. BABCOCK: Well, the other thing that we have to remember is that the piece of property is allowed one directory sign. Now you're allowed one freestanding sign for each property, not each business, so the problem there is that there's three stores there, there could be a possibility of three more, there's a foundation that has three more so there could be six stores there, so you wouldn't want six individual freestanding signs on that one piece of property. You'd want a directory sign that may be larger than the one and then divided by six and each person gets to put their name on it.

MR. COWAN: Wouldn't the variance be specifically for this particular sign and if I took it with me after I left it wouldn't apply to any further?

MR. KRIEGER: Well, the problem is variances are granted to particular pieces of property, not particular signs, in other words, if there was a variance granted and this sign issue, sign was damaged and you wanted to replace it with a sign just like it you'd have permission to do that because it wouldn't be only for this particular sign.

MR. COWAN: The dimensions as long as they were the same dimensions.

MR. KRIEGER: The variance is property specific so it can be limited by the board in terms of time, it cannot be limited in terms of individuals.

MR. COWAN: Could you, okay, if you wanted to put it

for 10 year period of time or something like that that would cover you.

MR. KRIEGER: That could be done.

MS. LOCEY: That's an idea and then just sunset it somewhere down the road.

MR. KRIEGER: Well, it would be self-extinguishing that way but that's certainly an allowable limitation.

MR. COWAN: That could be a happy compromise to everybody knowing that it's not going to be there forever and therefore you put a time limit.

MS. LOCEY: What do you think of that, Mike?

MR. BABCOCK: If it works for the board, I mean, we're not going to be able to keep track of a time limit.

MR. KRIEGER: No, it would be the same as other laws if nobody complains nothing happens but if somebody complains then you've got to resolve the question.

MR. COWAN: How this all came about if the landlord wasn't going to sell the property I wouldn't be here.

MR. BABCOCK: One of the issues we run into is that that's exactly what happens, they're either refinancing or selling and then the title company wants clear title so they want to make sure even though his sign may have been there in '75 we don't have any paperwork to give them so to get paperwork you have to meet today's code. I would hate to see the people that have temporary signs all coming here asking for these temporary signs to become permanent, that's where the problem's going to be.

MR. COWAN: The ironic part of this whole situation is the property is now sold and this was done in order for

her to get it sold and it's now the issue is not resolved but she's already gone so we have new owners and in theory her whole reason for having me do this was so that she could with her bank or whoever and now they closed last week so they--

MR. DITTBRENNER: There's probably still money in escrow to resolve this zoning issue.

MR. COWAN: What she did tell me was that as long as I got the process started she could close on the property and she closed on the property so I don't know how that's written.

MR. DITTBRENNER: There's probably still funds being held in escrow for this being satisfied and if it's not--

MR. BABCOCK: Yeah, until there's a C.O. on your sign they cannot get clear title, that's where the problem is, the worst case scenario is we tell you you have to remove your sign, she gets clear title and you put your sign back, that could be, you know, what I'm saying so but she can't until there's a C.O. once the process goes so they keep back \$300 from her.

MS. LOCEY: We do have a copy of a letter from the New Windsor Zoning Board of Appeals indicating that this process has started and preliminary hearing is scheduled for tonight, July 14, so I think that probably helped them with the closing.

MR. BABCOCK: Yes.

MR. COWAN: She did say it was urgent cause I had just closed for vacation on June 28 and I reopen tomorrow but she was also going out of town so she wanted, she had to make sure that this was all tied up before we closed because she said I guess once we got the process started that was enough clearance for the sale to go

through.

MS. LOCEY: What's the pleasure of the board? We have a motion on the floor and a second which includes the provision asking for--

MR. DITTBRENNER: Can we have that motion revised to separate these two requests?

MR. BEDETTI: I was also going to ask that when we vote on these we vote on them separately.

MR. DITTBRENNER: But your motion is for them together combined.

MR. BEDETTI: The motion is for a public hearing to entertain both of them and we could amend that to--

MS. LOCEY: We could amend that to indicate separate that each issue be handled separately at the time of the public hearing to be voted upon separately.

MR. KRIEGER: You might say that your motion doesn't limit the board's ability to do this, if it should choose to do that, it merely advances both the request as to a public hearing, doesn't bind the board in any way.

MR. BEDETTI: I would like to see the motion amended to handle each one separately.

MS. LOCEY: And we're still satisfied or comfortable with the temporary sign verbiage that we're looking for a 320 day variance for a temporary sign as opposed to trying to give them a variance for a permanent sign, second permanent freestanding sign, I prefer the temporary sign myself. Anybody else have any comments?

MR. TORPEY: No.

MS. LOCEY: Well, we might as well poll the board.

MR. BABCOCK: You've got the freestanding sign or the temporary sign and you've got the wall sign.

MS. MASON: Do we need the motion in the same one?

MS. LOCEY: We scheduled the public hearing for both.

MS. MASON: So one roll call.

MS. LOCEY: Correct. Roll call.

ROLL CALL

MR. DITTBRENNER	AYE
MR. TORPEY	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE

RALPH_RUIZ_(08-22)

MS. LOCEY: Ralph Ruiz, request for 20 foot rear yard setback for proposed 20 ft. x 50 ft. rear deck at 17 Barclay Road.

Mr. Ralph Ruiz appeared before the board for this proposal.

MS. LOCEY: Good evening, tell us, just summarize what it is you're requesting from the board.

MR. RUIZ: Just want to replace my deck that was dry rotted and little small and we decided to make it a little larger.

MS. LOCEY: You have an existing deck or had looks like you took it down already and the deck that you're proposing to construct is somewhat bigger?

MR. RUIZ: Yes.

MS. LOCEY: The permitted rear yard footage is 50, you only have 30, so you're looking for a 20 foot variance?

MR. RUIZ: I have 50, I'm going--

MS. MASON: No, you need 50.

MS. LOCEY: You need a 20 foot variance and again we just need to ask these questions. When you construct the deck will you be taking down any substantial vegetation, trees?

MR. RUIZ: Not at all.

MS. LOCEY: Are there any easements in the area where you plan on putting the deck?

MR. RUIZ: No.

MS. LOCEY: Will you be causing any water or drainage problems by constructing this deck?

MR. RUIZ: No.

MS. LOCEY: Now, from the pictures can you describe is the deck on the ground level or is it up?

MR. RUIZ: It's 8 feet high.

MS. LOCEY: So failure to construct a deck on that location would be a safety issue?

MR. RUIZ: Yes.

MR. KRIEGER: Exiting the house would be likely to sustain serious physical injury?

MR. RUIZ: Right.

MS. LOCEY: So you need the deck there?

MR. RUIZ: Yes.

MS. LOCEY: Are there other decks in your neighborhood about the same size as the one you'd like to put up?

MR. RUIZ: Yes.

MS. LOCEY: So you feel that it would maintain the character of your neighborhood, it wouldn't change that character at all?

MR. RUIZ: That's correct.

MS. LOCEY: Are there any other questions? I'll accept a motion.

MR. TORPEY: Make a motion that we schedule a public

hearing for Ralph Ruiz for the variances requested.

MR. DITTBRENNER: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. TORPEY	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE

RICHARD_SOLLAS_(08-23)

MS. LOCEY: Request for 6 foot side yard and 3 foot rear yard setback for an existing shed and a request for an 18 foot rear yard setback for an existing rear deck and a request for a 3 foot front yard setback for an existing 6 foot front porch overhang at 405 Carlton Circle in an R-4 zone. If you would give the stenographer your name?

MS. SOLLAS: Sandra Sollas.

MS. LOCEY: You have three separate applications here, one is for a 3 foot front yard variance, in other words, you need, you don't have 3 feet, you need 3 foot more in order to comply with the zoning.

MS. SOLLAS: Exactly.

MS. LOCEY: This is for an existing overhang on a front porch?

MS. SOLLAS: Yeah, there was an overhang already there, we closed it all in.

MS. LOCEY: So you made it like an enclosed porch or room or something?

MS. SOLLAS: Exactly.

MS. LOCEY: How long has that been up?

MS. SOLLAS: Fifteen, 20 years.

MS. LOCEY: Have you ever had any complaints formal or informal about this?

MS. SOLLAS: Never, nothing but compliments.

MS. LOCEY: Has it changed the character of your

neighborhood at all or has it improved it?

MS. SOLLAS: Not in a negative way.

MS. LOCEY: When you constructed this room, did you take down any substantial vegetation? Have you had any water or drainage problems?

MS. SOLLAS: No.

MS. LOCEY: Are there any easements, utility easements, drainage easements, that sort of thing that go under?

MS. SOLLAS: No.

MS. LOCEY: So that's your first application. The second one is for an 18 foot rear yard variance and again you already have an existing deck is that what it is on the back?

MS. SOLLAS: Yes.

MS. LOCEY: How long has this deck been up?

MS. SOLLAS: Also about 15 years, when we very first were going to build that deck where he checked to see what the requirements were and at the time we were told that if it was freestanding detached it was a 10 foot clearance which it is freestanding but my definition of attached and the town's definition of attached vary. I just found out that because I can step out from my home onto the deck that it is considered attached.

MS. LOCEY: And have you had any problems with water or drainage?

MS. SOLLAS: No.

MS. LOCEY: And any substantial vegetation taken down when that was constructed?

MS. SOLLAS: No, as a matter of fact, everything has grown pretty nicely around it.

MS. LOCEY: Any complaints formal or informal from anybody as far as the way it looks or how it's affected the neighborhood?

MS. SOLLAS: None whatsoever.

MS. LOCEY: And the third application is we have 2 on this application, we have a request for a 6 foot side yard variance and a 3 foot rear yard variance.

MS. SOLLAS: It's cornered, it's in a corner of the property.

MS. LOCEY: This is because of what?

MS. SOLLAS: It's also another misunderstanding, it's a shed and it was, it's not on any permanent foundation, it wasn't considered a permanent structure but it's made of wood.

MS. LOCEY: And it's too close to the property line. How long has that been up?

MS. SOLLAS: About 15 years, we just recently sided the house, sided the shed so it matched and everything, looks brand new but it's been there.

MS. LOCEY: It's been there that long?

MS. SOLLAS: Yes.

MS. LOCEY: Does anyone else have any comments or questions, any issues they would like discussed before we move forward? You have extra pictures for us?

MS. SOLLAS: Yeah, would you like them?

MS. SOLLAS: Any board members have any questions?
Then I'll accept a motion.

MR. BEDETTI: I will make a motion that we schedule a
public hearing for Richard Sollas as requested of 08-23
for variances as requested.

MS. LOCEY: Also we have the request for 18 foot rear
yard setback because of an existing deck and lastly a
request for 3 foot front yard setback for an existing
front porch.

MR. TORPEY: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. TORPEY	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE

DEVIN_SCHIAROLI_(08-24)

MS. LOCEY: Request for 25 foot rear yard setback for proposed attached pool deck at 2 Werner Court in an R-1 zone.

Mr. Devin Schiaroli appeared before the board for this proposal.

MS. LOCEY: And if you want to just summarize what it is you're looking for.

MR. SCHIAROLI: I'm just looking to attach our pool deck to my existing deck.

MS. LOCEY: So you have an existing deck off the house?

MR. SCHIAROLI: That's it right there.

MS. LOCEY: And you have a pool?

MR. SCHIAROLI: An above-ground.

MS. LOCEY: And now you want to extend the existing deck so it attaches to the pool?

MR. SCHIAROLI: Correct, and the reason I have to put the deck where it is I couldn't put it on the opposite side because one side's a septic and the other side is the well line, it comes from the back corner.

MS. LOCEY: Those are good reasons.

MR. SCHIAROLI: On the other side of the pool is the leach field.

MS. LOCEY: Where is the pool? Do we have a picture? Here it is, kind of hidden there.

MR. SCHIAROLI: Yeah.

MS. LOCEY: Will you be taking down any substantial vegetation when you construct the new deck?

MR. SCHIAROLI: No.

MS. LOCEY: Do you have any easements in that area that you will be crossing with the deck?

MR. SCHIAROLI: No, not at all.

MS. LOCEY: Are there other decks in your neighborhood similar to what you're proposing?

MR. SCHIAROLI: Couple of them, yeah.

MS. LOCEY: So you don't feel it would negatively impact the character of your neighborhood?

MR. SCHIAROLI: Actually, I live in an old existing trailer park, I bought the property and built a house and so they're trying to take some of the old trailers out.

MS. LOCEY: And improve the whole area.

MR. SCHIAROLI: There's a lot where they're actually pulling the old out and trying to put a house.

MS. LOCEY: You already indicated the reason you want to put it where you have proposed is your septic and your water are on the other side so you can't intrude upon that area.

MR. SCHIAROLI: Right.

MS. LOCEY: Does anybody else have any questions, comments? If there are no other comments, I'll accept a motion.

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MR. BEDETTI: I will make a motion that we schedule a public hearing for Devin Schiaroli for request for 25 foot rear yard setback for proposed pool, attached pool deck at 2 Werner Court.

MR. DITTBRENNER: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. TORPEY	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE

PUBLIC_HEARINGS

JOHN_CHANNEL_(08-18)

MS. LOCEY: Request to allow a proposed 5 foot fence closer to the road than the principal dwelling on a corner lot at 1036 Rolling Ridge in an R-3 zone.

Mr. John Channel appeared before the board for this proposal.

MS. LOCEY: Once again, summarize for the board what it is you're requesting and why.

MR. CHANNEL: I'm requesting a fence to extend, I want, I'm on a corner property to extend passed my building line, my house is mostly primarily on the other side of the property so most of my property is on the corner side or the street side, so I want to use that property and put a fence up and I have two dogs I want to keep my dogs in my yard and keep other dogs out while I have them out there. That's basically it.

MS. LOCEY: And the proposed fence is closer to the road and you're here because--

MR. CHANNEL: Well, it's closer to the road because my house is more if you're looking at my house it's more on the left-hand side than the right and most of my property I'd say probably about 50 percent of the property is on the curb side of my house.

MR. KRIEGER: Visually it appears to be a side yard but technically it's a front yard.

MR. CHANNEL: Right, I'm going to ask is there an avenue I can take to somehow to find out if I can amend this restriction on my property? I mean, it's kind of ridiculous.

MS. LOCEY: Well, there are reasons why because you're on a corner.

MR. CHANNEL: But I have 88 feet from the property line and the nearest property is 40 feet off the line which you guys left for the Forest Glen development. So I have to have my house, I actually could build an extension on my house on this property without a variance so why can't I build a 5 foot fence?

MR. KRIEGER: The answer to your question can you remove the restriction for all purposes is no. However, the location of your house and the physical layout of the property is a reason for a variance to be granted.

MR. CHANNEL: Right, I understand but if I do anything else on this property, say I put a shed or vegetation or trees, do I need another variance for that?

MR. BABCOCK: If you put a shed out there you do.

MR. TORPEY: It's a corner lot.

MR. CHANNEL: Where can I go to see if I can fight this corner lot issue? I'm not saying now today, down in the future.

MR. BABCOCK: There's no fighting, that's the definition, it's there, you know, if your house was 35 feet from that property, you know what I mean, and you had the other side you could put an addition on your house without a variance.

MR. CHANNEL: Does that seem to be a little ridiculous?

MR. BABCOCK: The law says accessory structures cannot project closer to the street than the principal building. You wouldn't want to drive down the road, I know this seems weird, but you wouldn't want to drive

down the road and everybody's swimming pools and sheds are in the front yard.

MR. CHANNEL: When I bought the house the envelope that they allowed me was 40 feet off the curb line so I'm proposing to put everything within 40 feet of the curb line.

MR. BABCOCK: The principal structure, not accessory structures.

MS. LOCEY: We're here to help you.

MR. CHANNEL: I want the variance, I just wanted to know if there's somebody, somewhere I can go, just trying to kill two birds with one stone so I won't be here again.

MS. LOCEY: Unfortunately, it's a unique situation because it is a corner lot and there are restrictions.

MR. CHANNEL: It's more upkeep.

MS. LOCEY: Okay.

MR. CHANNEL: That being said, thank you for that time on that so go ahead.

MS. LOCEY: With that I believe we should open up to the public and ask if there's anyone here to speak on this application? Since there's not, we'll close the public portion of the hearing, any comments, questions, discussion?

MR. BEDETTI: How many letters went out?

MS. MASON: On the first day of July, I mailed out 38 addressed envelopes and had no response.

MS. LOCEY: Thank you.

MR. KRIEGER: Remove any trees?

MR. CHANNEL: No trees, did not, no drainage problems, no visual, no.

MS. LOCEY: The fence will not interfere with drivers as they pass by?

MR. CHANNEL: Absolutely not.

MS. LOCEY: Are there any easements on the property?

MR. CHANNEL: No.

MS. LOCEY: And we know that it is a unique situation because you're on a corner lot, there's no where else you can put the fence just by nature of this location of the lot.

MR. CHANNEL: Correct.

MS. LOCEY: Anything else? Are there other fences similar?

MR. CHANNEL: I'm actually matching my neighbor's fence with my fence.

MS. LOCEY: You don't feel it will negatively impact the character of the neighborhood?

MR. CHANNEL: Absolutely not.

MS. LOCEY: Obviously your neighbors agree because they're not here or in writing. Do you have any other comments or questions? With that, I'll accept a motion.

MR. DITTBRENNER: I would move we approve the request of John and Kathleen Channel to allow proposed 5 foot

fence closer to the road than the principal dwelling on a corner lot at 1036 Rolling Ridge.

MR. BEDETTI: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. TORPEY	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE

PATRICIA_COPPOLA_(08-16)

MS. LOCEY: Request for 5 foot side yard setback for proposed 10 ft. x 16 ft. shed at 1037 Rolling Ridge in an R-3 Zong.

Mr. and Mrs. Coppola appeared before the board for this proposal.

MS. LOCEY: Hi, do you want to just summarize what it is you're asking for?

MR. COPPOLA: We're looking for the shed on this side here, this is the, our property line and the shed is going to be 10 by this one here it's, you have to be, the shed we're putting up is 10 x 20 which would make this whole thing 20 feet on the property which is kind of like we'd be looking from the deck at the side of it so we wanted to go 5 feet closer to the property line.

MS. LOCEY: So instead of 10 foot you just--

MR. COPPOLA: Five foot.

MS. LOCEY: Five foot side yard. I can see from the pictures but still we have to ask for the record will you be taking down any substantial vegetation?

MR. COPPOLA: No.

MRS. COPPOLA: No.

MS. LOCEY: Are there any easements?

MR. COPPOLA: No.

MS. LOCEY: Will you be causing any water or drainage problems?

MR. COPPOLA: No.

MS. LOCEY: And do you feel it will negatively impact the character of your neighborhood?

MR. COPPOLA: No.

MS. LOCEY: Are there other sheds in the area similar to the one you're proposing about the same size?

MR. COPPOLA: Yes.

MS. LOCEY: So you feel it would fit in to the character of the neighborhood?

MR. COPPOLA: Well, I would say 70 percent of the houses have them.

MS. LOCEY: And your property is small and as you indicated you'd be looking at the shed.

MR. COPPOLA: Yeah, if you come out the back of the house it would be 20 feet and you'd kind of see like the side of it and you've got all the space behind it which would be dead space, I figured 5 feet off the property line still room back here still, you know, on our property but just a little bit closer just a little bit to the property line.

MS. LOCEY: Since there's no one in the audience I must deduct that there is no one here to speak on this public hearing so we'll close, open and close the public portion of the hearing.

MS. MASON: On July 11, I mailed out 32 addressed envelopes and had no response.

MR. KRIEGER: From the pictures it appears that there's an elevation difference between your property is actually lower than your neighbor's property?

MR. COPPOLA: Mine's higher.

MR. KRIEGER: Okay, that's all.

MS. LOCEY: Any other comments, questions, concerns from the board? If not, I'll accept a motion.

MR. DITTBRENNER: I'll move to approve the request of Patricia Coppola for 5 foot side yard setback for proposed 10 ft. x 16 ft. shed at 1037 Rolling Ridge.

MR. BEDETTI: Second it.

ROLL CALL

MR. DITTBRENNER AYE

MR. TORPEY AYE

MR. BEDETTI AYE

MS. LOCEY AYE

MS. LOCEY: Motion to adjourn?

MR. BEDETTI: So moved.

MR. TORPEY: Second it.

ROLL CALL

MR. DITTBRENNER AYE

MR. TORPEY AYE

MR. BEDETTI AYE

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MS. LOCEY

AYE

Respectfully Submitted By:

Frances Roth
Stenographer

